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AMENDMENTS TO THE CLAIMS:

1. (Currently amended) A nonaqueous electrolyte battery comprising:  
a positive electrode, a negative electrode, and a nonaqueous electrolyte,  
wherein the ~~above~~ nonaqueous electrolyte comprises ~~contains at least~~ a cyclic carbonate having a carbon-carbon  $\pi$  bond in an amount which is not greater than 20% by weight of said nonaqueous electrolyte, and  
wherein the ~~above~~ positive electrode comprises ~~contains~~ a positive active material comprising a composite oxide represented by a composite formula:  $\text{Li}_x\text{Mn}_a\text{Ni}_b\text{Co}_c\text{O}_2$  (wherein  $0 \leq x \leq 1.1$ ,  $a+b+c=1$ ,  $|a-b| < 0.05$ ,  $0 < c < 1$ ) and having an  $\alpha$ - $\text{NaFeO}_2$ -type crystal structure.
2. (Currently amended) A nonaqueous electrolyte battery comprising:  
a positive electrode, a negative electrode, and a nonaqueous electrolyte,  
wherein the ~~above~~ positive electrode comprises ~~contains~~ a positive active material comprising a composite oxide represented by a composite formula:  $\text{Li}_x\text{Mn}_a\text{Ni}_b\text{Co}_c\text{M}_d\text{O}_2$   $\text{Li}_x\text{Mn}_a\text{Ni}_b\text{Co}_c\text{O}_2$  (wherein  $0 \leq x \leq 1.1$ ,  $a+b+c=1$ ,  $|a-b| < 0.05$ ,  $0 < c < 1$ ,  $d \leq 0.1$ ) and having an  $\alpha$ - $\text{NaFeO}_2$ -type crystal structure,  
wherein M comprises a member selected from the group consisting of V, Al, Mg, Cr, Ti, Cu and Zn, and  
wherein the battery is fabricated using a nonaqueous electrolyte comprises containing at least a cyclic carbonate having a carbon-carbon  $\pi$  bond in an amount which is not greater than 20% by weight of said nonaqueous electrolyte.
3. (Currently amended) The nonaqueous electrolyte battery according to claim 1, wherein the ~~above~~ cyclic carbonate having a carbon-carbon  $\pi$  bond comprises at least one member ~~is one or more~~ selected from the group consisting of vinylene carbonate, styrene carbonate, catechol carbonate, vinyl ethylene carbonate, 1-phenylvinylene carbonate, and 1,2-diphenylvinylene carbonate.
4. (Currently amended) The nonaqueous electrolyte battery according to claim 1, wherein the ~~above~~ negative electrode comprises ~~contains a~~ graphite.

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5. (Currently amended) The nonaqueous electrolyte battery according to claim 1, wherein the ~~above~~ nonaqueous electrolyte comprises ~~uses~~ a mixture of an inorganic lithium salt and an organic lithium salt having a perfluoroalkyl group.
6. (Currently amended) The nonaqueous electrolyte battery according to claim 2, wherein the ~~above~~ cyclic carbonate having a carbon-carbon  $\pi$  bond comprises at least one member ~~is one of more~~ selected from the group consisting of vinylene carbonate, styrene carbonate, catechol carbonate, vinylethylene carbonate, 1-phenylvinylene carbonate, and 1,2-diphenylvinylene carbonate.
7. (Currently amended) The nonaqueous electrolyte battery according to claim 2, wherein the above negative electrode comprises ~~contains~~ a graphite.
8. (Currently amended) The nonaqueous electrolyte battery according to claim 2, wherein the ~~above~~ nonaqueous electrolyte comprises ~~uses~~ a mixture of an inorganic lithium salt and an organic lithium salt having a perfluoroalkyl group.
9. (New) The nonaqueous electrolyte battery according to claim 1, wherein said cyclic carbonate having a carbon-carbon  $\pi$  bond comprises vinylene carbonate.
10. (New) The nonaqueous electrolyte battery according to claim 1, wherein said nonaqueous electrolyte further comprises a nonaqueous solvent including at least one cyclic organic compound having no carbon-carbon  $\pi$  bond.
11. (New) The nonaqueous electrolyte battery according to claim 1, wherein said cyclic organic compound having no carbon-carbon  $\pi$  bond comprises at least one member selected from the group consisting of ethylene carbonate, propylene carbonate, and butylene carbonate.
12. (New) The nonaqueous electrolyte battery according to claim 1, wherein  $0.33 \leq c \leq 0.8$ .

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13. (New) The nonaqueous electrolyte battery according to claim 1, further comprising:  
a lithium ion-permeable protective film formed on a surface of the negative electrode,  
said protective film comprising a decomposition product of vinylene carbonate and having a  
density and lithium ion permeability which are dependent upon reaction between said  
nonaqueous electrolyte and said composite oxide.
14. (New) The nonaqueous electrolyte battery according to claim 13, wherein said  
nonaqueous electrolyte comprises a nonaqueous solvent, said protective film restraining a  
decomposition of the nonaqueous solvent.
15. (New) The nonaqueous electrolyte battery according to claim 1, wherein an increase in  
thickness of said battery after an 84 day high temperature storage test is no greater than about  
8%.
16. (New) The nonaqueous electrolyte battery according to claim 4, wherein said graphite  
comprises a modified graphite that has been modified by adding thereto at least one member  
selected from the group consisting of a metal oxide, phosphorus, boron, and amorphous  
carbon.
17. (New) The nonaqueous electrolyte battery according to claim 4, wherein said graphite  
comprises a combination of a graphite with one of a lithium metal and a lithium metal-  
containing alloy.
18. (New) The nonaqueous electrolyte battery according to claim 1, further comprising:  
a separator formed between said positive and negative electrodes,  
wherein said positive electrode comprises a positive composite and a positive  
collector which is adjacent to said separator, and said negative electrode comprises a negative  
composite and a negative collector which is adjacent to said separator.
19. (New) A method of fabricating a nonaqueous electrolyte battery, comprising:

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forming a negative electrode;

forming a positive electrode comprising a positive active material comprising a composite oxide represented by a composite formula:  $\text{Li}_x\text{Mn}_a\text{Ni}_b\text{Co}_c\text{O}_2$  (wherein  $0 \leq x \leq 1.1$ ,  $a+b+c=1$ ,  $|a-b| < 0.05$ ,  $0 < c < 1$ ) and having an  $\alpha\text{-NaFeO}_2$ -type crystal structure;

forming a separator between said positive and negative electrodes;

pouring a nonaqueous electrolyte into a battery package for housing said positive and negative electrodes and separator, said nonaqueous electrolyte comprising a cyclic carbonate having a carbon-carbon  $\pi$  bond in an amount which is not greater than 20% by weight of said nonaqueous electrolyte; and

performing an initial charge/discharge to form a lithium ion-permeable protective film on a surface of the negative electrode, said protective film comprising a decomposition product of vinylene carbonate and having a density and lithium ion permeability which are dependent upon reaction between said nonaqueous electrolyte and said composite oxide.